

TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Tom Truex, 797-1030

PREPARED BY: Ken Cohen, 797-1030

SUBJECT: Resolution

AFFECTED DISTRICT: Townwide

ITEM REQUEST: Schedule for Council Meeting

TITLE OF AGENDA ITEM: A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ESTABLISHING A SURVEILLANCE POLICY TO INCLUDE DEFINITIONS, DIRECTION, EXCEPTIONS AND IMPLEMENTATION. (tabled from December 19, 2007)

REPORT IN BRIEF: At the August 1, 2007 council meeting the issue of audio/video surveillance was discussed with Mayor Truex wanting to meet with the Police Chief, Administration and the Town Attorney to create a resolution. At the September 5, 2007 meeting Mayor Truex indicated that he would be drafting a resolution creating a policy.

PREVIOUS ACTIONS: At the December 19, 2007 Town Council meeting, Council tabled the item to January 2, 2008.

At the December 5, 2007 Town Council meeting, the Town Council tabled it to the December 19, 2007 Town Council meeting.

At the November 7, 2007 Town Council meeting, council directed staff to make several changes and to bring this item back for councils review at the December 5, 2007 Town Council meeting.

CONCURRENCES:

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Motion to approve

Attachment(s): Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
ESTABLISHING A SURVEILLANCE POLICY TO INCLUDE
DEFINITIONS, DIRECTION, EXCEPTIONS AND
IMPLEMENTATION.

WHEREAS, The Town of Davie recognizes the dangers associated generally with
the unwarranted surveillance of its residents; and

WHEREAS, Advances in technology make widespread surveillance of
individuals and places increasingly easy and effective; and

WHEREAS, Advances in computer and other electronic technology, in particular
make, it increasingly convenient to conduct constant surveillance of individuals and
places. For example, “Moore's Law” predicts that computing capacity will double every
eighteen months; and

WHEREAS, “Spycams” or hidden cameras are often a particularly offensive
means of surveillance. However, they are by no means the only method of surveillance
which presents a threat to the liberty and privacy of individuals within the Town of
Davie; and

WHEREAS, it is the policy and intention of the Town of Davie to prohibit the
surveillance of Davie residents and others within the Town of Davie by the Town of
Davie and its agents, employees and representatives, subject to the definitions and
exceptions set out in this resolution; and

WHEREAS, it is the intent of the Town of Davie to limit the use of surveillance
to the minimum times, places and duration necessary to accomplish the purposes
described in the exceptions to prohibited surveillance.

WHEREAS, it is not the intent of the Town of Davie to imply, extend or create any right or ability to conduct any surveillance which would not be authorized in the absence of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. Definitions. The following terms are defined for purposes of this resolution:

A. "Surveillance" is the observation of a person or group.

B. "Video Surveillance" is surveillance by means of a camera or other video device; whether or not an image is saved or recorded; whether the image is still or moving; and whether an image is transmitted or saved with photographic film, electronically, or otherwise.

C. "Audio Surveillance" is surveillance of sound, either separately or in combination with video surveillance.

SECTION 2. Direction. The Town of Davie directs its agents, employees and representatives to refrain from conducting or participating in the surveillance of people and/or places, in performance of official Town business, subject to the definitions and exceptions set out in this resolution.

SECTION 3. Exceptions. These exceptions shall not be interpreted to authorize any surveillance which is otherwise prohibited by Town policy or general law. However, this Resolution specifically does not apply and does not prohibit surveillance in the following circumstances:

A. Surveillance conducted in or about any police or fire station or police or fire/rescue vehicle;

B. Surveillance conducted directly by police or fire-rescue personnel to be incorporated into training materials.

C. Surveillance conducted directly by police officers in furtherance of official police duties with law enforcement purpose for a specific criminal activity which will become part of a criminal investigation.

D. Surveillance conducted directly by fire/rescue personnel in furtherance of official fire/rescue duties in direct connection with a specific fire/rescue event.

E. Surveillance by direct observation by human eyes and/or ears of the person conducting the surveillance, so long as the person conducting the surveillance is within the plain sight of the person or group which is the subject of the surveillance.

F. Surveillance through a conspicuous “peep hole” in a door.

G. Surveillance through a large, conspicuous mirror, which is plainly visible to the person being observed, of the type generally used to see around blind turns or corners.

H. Video or audio surveillance at official Town meetings or workshops, so long as any device used in the surveillance is clearly visible and/or the surveillance is announced at the commencement of the meeting or workshop to everyone present.

I. Video or audio surveillance of sporting, entertainment or cultural events in which the surveillance is conducted primarily of the subject event and not primarily of the crowd or audience.

J. Video or audio surveillance by photography, video or audio recording of short duration, when the purpose is for publication or distribution in Town publications or other media, or preservation of images or sound for historical records, or other training material being produced for Town personnel.

K. Surveillance with the specific express consent of the person(s) being observed; however the consent must be completely voluntary, and cannot be used as a condition to granting any privilege or right.

L. Surveillance when all parties involved are using an ordinary intercom system or two-way radios, with full knowledge.

M. Surveillance of employees, with knowledge of the employee, for a short duration, when used as sanctioned training that is used by departments to document, record and evaluate actions, tactics and procedures for the purpose of improving performance and skills of employees. Video or audio surveillance can also be used in the evaluative process of new employee and/or promotional testing to record the knowledge, skills and abilities of candidates for hire and/or promotions.

N. Surveillance conducted in association with investigations of potential insurance and/or other fraud, and of claimants against the Town or its insurance providers.

O. Surveillance conducted in coordination with or at the direction of state or federal government departments.

P. Surveillance in other instances specifically approved in advance by resolution or ordinance of the Davie Town Council.

SECTION 4. Implementation.

A. The Town Administrator is directed to insure compliance with the policies, direction and intent set out in this Resolution.

B. Town Administration shall establish specific written policies and procedures for maintaining any surveillance media or records which may be considered public records pursuant to law.

C. The Town Attorney and Town Staff are directed to insure that all future contracts with non-government entities or persons, in which the Town of Davie is a party, must contain a specific provision or separate written addendum, which makes specific reference to this Resolution, and which either prohibits surveillance subject to the definitions and exceptions set out in this resolution; or which specifically sets forth how, when and where any such surveillance will take place.

SECTION 5. This resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2007

MAYOR/COUNCILMEMBER

Attest

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2007